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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/695,275

10/28/2003

Bob G. Sanders

D6150CIP2/D

4689

7590

12/16/2004

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EXAMINER

KHARE, DEVESH

ART UNIT

PAPER NUMBER

1623

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/695,275	Applicant(s) SANDERS ET AL.	
	Examiner Devesh Khare	Art Unit 1623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8 and 14-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6 and 14-16 is/are allowed.
- 6) ☒ Claim(s) 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Applicant's amendments and remarks filed on 9/29/04 are acknowledged. Claims 1,4-6 and 8 have been amended. Claims 7, 9-13 and 17 have been cancelled.

The rejections of claims 1-6 and 8 under 35 U.S.C., 112, first paragraph have been overcome through applicants' amendment to the claims.

Claims 1-6, 8, and 14-16 are currently pending in this application.

Claim 8 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claim 8, a method for inhibiting the growth of tumor cells wherein said tumor cells comprise non-solid tumors such as a glioma, a fibrosarcoma, a retinoblastoma and a melanoma, the support for a method for inhibiting the growth of non-solid tumor cells could not be found in the specification.

2. The compounds of formula presented in independent claims 1 and 14 such as tocopherols, tocotrienols, other chroman and side derivatives, are disclosed in the issued U.S. Patents 6,770,672, is assigned to the assignee of this invention and claims 1-6 and 14-16 of the present invention recite methods of inhibiting the growth of tumor cells in an individual and inducing apoptosis of a cell with a pharmacologically effective dose of the compounds of formula presented in claims 1 and 14 where X and Y are

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oxygen or nitrogen and R^5 is a C_{7-16} olefinic group containing 3 to 5 ethylenic bonds, is not taught or fairly suggested by the prior art of the record.

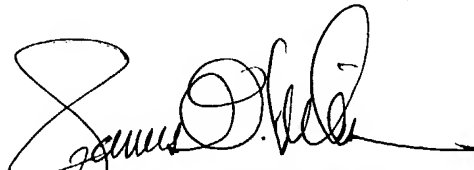
Any inquiry concerning this communication or earlier communications from the

Examiner should be directed to Devesh Khare whose telephone number is 571-272-0653. The examiner can normally be reached on Monday to Friday from 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson, Supervisory Patent Examiner, Art Unit 1623 can be reached at 571-272-0661. The official fax phone numbers for the organization where this application or proceeding is assigned is (703) 308-4556 or 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Devesh Khare, Ph.D., J.D.
Art Unit 1623
December 10, 2004



JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1609